

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARLENE MCINTOSH	:	Civil Action No. 15-5157
v.	:	
WHITE HORSE VILLAGE, INC.	:	

ORDER

AND NOW, this 7th day of April 2016, upon consideration of Defendant's Motion to Dismiss Count V and partially dismiss Count VI of the Amended Complaint, Plaintiff's response and Defendant's reply, and for the reasons set forth in the accompanying memorandum, it is hereby **ORDERED** that the Motion [Doc. No. 11] is **GRANTED**.

Defendant seeks dismissal of the claims with prejudice, arguing that amendment would be futile as the time to administratively exhaust these claims has lapsed. While the Court believes it is likely that amendment would be futile, the Court acknowledges the possibility that the EEOC and/or PHRC investigation of Plaintiff's Charge encompassed an examination of whether Plaintiff had experienced disability-based discrimination or retaliation. Therefore, the Court will allow Plaintiff the opportunity to move for leave to file a second amended complaint within 21 days of the date of this Order. If Plaintiff does not so move, the dismissal will be converted to a dismissal with prejudice, without further action by the Court.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ